

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Review Petition No. 7/RP/2021

in

Petition No. 77/TT/2020

Coram:

Shri P.K. Pujari, Chairperson

Shri I. S. Jha, Member

Date of Order : 12.10.2021

In the matter of:

Review petition under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999, seeking review of the order dated 16.8.2020 in Petition No. 77/TT/2020

And in the Matter of:

Power Grid Corporation of India Limited,
SAUDAMINI, Plot No-2, Sector-29,
Gurgaon-122 001 (Haryana).

.....Petitioner

Versus

1. Tamil Nadu Generation and Distribution Corporation Limited,
(Formerly Tamil Nadu Electricity Board -TNEB),
NPKRR Maaligai, 800, Anna Salai,
Chennai – 600002
2. Transmission Corporation of Andhra Pradesh Limited,
Vidyut Soudha,
Hyderabad – 500082
3. Kerala State Electricity Board,
Vaidyuthi Bhavanam, Pattom,
Thiruvananthapuram – 695004
4. Tamil Nadu Electricity Board,
NPKRR Maaligai, 800, Anna Salai,
Chennai – 600002



5. Electricity Department,
Government of Goa,
Vidyuti Bhawan, Panaji,
Goa – 403001
6. Electricity Department,
Government of Pondicherry,
Pondicherry – 605001
7. Eastern Power Distribution Company of Andhra Pradesh Limited,
APEPDCL, P&T Colony,
Seethmmadhara, Vishakhapatnam,
Andhra Pradesh
8. Southern Power Distribution Company of Andhra Pradesh Limited,
Srinivasasa Kalyana Mandapam Backside,
Tiruchanoor Road, Kesavayana Gunta, Tirupati – 517501,
Chittoor District, Andhra Pradesh
9. Southern Power Distribution Company of Telangana Limited,
6-1-50, Corporate Office, Mint Compound,
Hyderabad – 500063, Telangana
10. Northern Power Distribution Company of Telangana Limited,
H.No 2-5-3 1/2, Vidyut Bhawan, Corporate Office, Nakkal Gutta, Hanamkonda,
Warangal – 506001, Telangana
11. Bangalore Electricity Supply Company Limited,
Corporate Office, K.R.Circle,
Bangalore – 560001, Karnataka
12. Gulbarga Electricity Supply Company Limited,
Station Main Road, Gulbarga,
Karnataka
13. Hubli Electricity Supply Company Limited,
Navanagar, PB Road, HUBLI,
Karnataka
14. MESCOM Corporate Office,
Paradigm Plaza, AB Shetty Circle,
Mangalore – 575001, Karnataka
15. Chamundeswari Electricity Supply Corporation Limited,
927,L J Avenue, Ground Floor,
New Kantharaj Urs Road, Saraswatipuram,
Mysore – 570009, Karnataka
16. Transmission Corporation of Telangana Limited,
Vidhyut Sudha, Khairatabad,



Hyderabad, 500082

17. Tamil Nadu Transmission Corporation,
NPKRR Maaligai, 800, Anna Salai,
Chennai – 600002

18. Karnataka Power Transmission Corporation Limited,
Kaveri Bhavan, Bangalore – 560009

...Respondent(s)

For Petitioner: Ms. Swapna Seshadri, Advocate, PGCIL
Shri S. S. Raju, PGCIL
Shri D. K. Biswal, PGCIL
Shri V. P. Rastogi, PGCIL
Shri A. K. Verma, PGCIL

For Respondent: Shri S. Vallinayagam, Advocate, TANGEDCO
Ms. R. Ramalakshmi, TANGEDCO
Dr. R. Kathiravan, TANGEDCO
Shri R. Srinivasan, TANGEDCO

ORDER

Power Grid Corporation of India Limited (PGCIL) has filed the instant review petition seeking review of the order dated 16.8.2020 in Petition No. 77/TT/2020 under Section 94(1)(f) of the Electricity Act, 2003 read with Regulation 103 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.

Background

2. The Investment Approval for the “Common System associated with ISGS projects in Krishnapatnam area of Andhra Pradesh in Southern Region” (hereinafter referred to as “the transmission project”) was accorded by the Board of Directors of the Petitioner Company, vide Memorandum Ref No. C/CP/ISGS Krishnapatnam dated 4.8.2011 at an estimated cost of ₹163734 lakh including IDC of ₹10228 lakh based on 1st quarter, 2011 price level. The scope of work covered under the transmission project is as follows:



Transmission lines:

- i. LILO of both circuits of SEPL/MEPL-Nellore 400 kV D/C Quad line at Nellore Pooling Station;
- ii. Nellore Pooling Station-Kurnool 765 kV D/C line;
- iii. Kurnool-Raichur 2nd 765 kV S/C line;

Sub-stations:

- i. Establishment of new 2x1500 MVA, 765/400 kV Sub-station at Nellore;
- ii. Extension of Kurnool 765/400 kV Sub-station;
- iii. Extension of Raichur 765/400 kV Sub-station;

Reactive Compensation:

- i. 1x240 MVAR, 765 kV bus reactor at new 765/400 kV Nellore Substation;
- ii. 240 MVAR, 765 kV line reactors at each end of both circuits of Nellore Kurnool 765 kV.

3. PGCIL filed Petition No. 77/TT/2020 for truing-up of transmission tariff of 2014-19 period under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2014 (hereinafter referred to as “the 2014 Tariff Regulations”) and determination of transmission tariff of 2019-24 tariff period under Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019 Tariff Regulations”) for the following transmission assets under the transmission project:

Asset-I: (A) LILO of 400 kV Simhapuri and Meenakshi-Nellore D/C Quad line and (B) Associated bays and common systems at Nellore Pooling Station;

Asset-II: (A) 1500 MVA, 765/400 ICT 2 and 240 MVAr reactor along with associated bays at 765/400 kV Nellore Pooling Station and (B) 1500 MVA, 765/400 ICT 3 and 240 MVAr reactor along with associated bays at 765/400 kV Nellore Pooling Station;

Asset-III: (A) Kurnool-Raichur 2nd 765 kV S/C line, (B) Extension of Kurnool 765/400 kV Sub-station and (C) Extension of Raichur 765/400 kV Sub-station; and

Asset-IV: (A) Nellore Pooling Station-Kurnool 765 kV D/C line along with associated bays at 765 kV Nellore Pooling Station and Kurnool Sub-station and (B) 240 MVAr, 765 kV line reactor at Nellore end of one circuit and at Kurnool end both circuits of Nellore-Kurnool 765 kV line (hereinafter collectively referred to as “the transmission assets” or “Combined Asset”).



4. The details of date of commercial operation of the transmission assets and the petitions in which tariff was approved for the 2014-19 tariff period are as follows:

Asset		Earlier covered in Petition Number		Asset nomenclature in previous order	COD
Asset-I		224/TT2013 and 417/TT/2014		N/A	1.4.2013
Asset-II	Asset-I	182/TT/2016	37/TT/2014	Asset-I	1.2.2014
	Asset-II		37/TT/2014	Asset-II	1.3.2014
Asset-III		161/TT/2015		N/A	21.6.2014
Asset-IV		245/TT/2014		N/A	1.11.2014

5. The Commission vide the impugned order dated 16.8.2020 in Petition No. 77/TT/2020 allowed additional Return on Equity (RoE) of 0.5% for Asset-I, Asset-II and Asset-IV for completing them within the timeline specified in the 2014 Tariff Regulations. However, the claim for additional RoE for Asset-III was disallowed for the following reasons:

a. The Commission, while determining tariff for Asset-III, vide order dated 30.12.2015 in Petition No. 161/TT/2015 had earlier also disallowed the claim of additional RoE of 0.5% for Asset-III because the Review Petitioner had failed to submit the certificate from the Regional Power Committee (RPC)/ National Power Committee (NPC) stating that its commissioning will benefit the system operation in the regional/ national grid as mandated under Regulation 24(2)(iii) of the 2014 Tariff Regulations.

b. The Review Petitioner had failed to submit the relevant RPC/ NPC certificate again in Petition No. 77/TT/2020 during the truing up of transmission tariff for the 2014-19 period. Therefore, the Commission vide the impugned order dated 16.8.2020 in Petition No. 77/TT/2020 had held as follows:

“44. We have considered the submissions of The Petitioner. Asset-III is a 765 kV S/C transmission line and the qualifying timeline specified in the 2014 Tariff Regulations for grant of additional RoE of 0.5% is 36 months. The Investment Approval of the instant project was accorded on 4.8.2011 and Asset-III was put into commercial operation on 21.6.2014 and accordingly it was completed within the qualifying time limit of 36 months. However, The Petitioner has not submitted the RPC/NPC certificate stating that early completion of Asset-III has benefitted



the regional/national grid as required under Regulation 24(2)(iii) of the 2014 Tariff Regulations...

45. Therefore, we are not inclined to reconsider decision of the Commission to grant additional RoE of 0.5% for Asset-III. The matter was already decided vide order dated 30.12.2015 in Petition No. 161/TT/2015 and it is incorrect on part of The Petitioner to re-agitate the same issue."

6. The Review Petitioner has sought review of the said decision of the Commission in the impugned order dated 16.8.2020 in Petition No. 77/TT/2020 contending that the Commission did not take cognizance of the order dated 30.5.2016 in Review Petition No. 13/RP/2016 (filed for review of the order dated 30.12.2015 in Petition No. 161/TT/2015) wherein the Commission had reconsidered the Review Petitioner's claim of additional RoE for Asset-III and had held in favour of the Review Petitioner. Therefore, the Review Petitioner has submitted that the decision of disallowing the claim of additional RoE for Asset-III may be re-considered as the same is an error apparent on the face of record.

7. The Review Petitioner has made the following prayers:

"(a) Admit the present review petition;

(b) Allow the petition for review and grant to the Petitioner an additional return on equity of 0.5% for Asset III;

(c) Pass such further order(s) as deemed fit and proper;"

8. The matter was heard through video conference on 20.7.2021 and order was reserved by the Commission.

Submissions of the Review Petitioner and the Respondent

9. The gist of the submissions made by the Review Petitioner in the instant review petition in support of its plea for review of the impugned order dated 16.8.2020 in Petition No. 77/TT/2020 is as follows:

a. The Commission did not take cognizance of the order dated 30.5.2016 in Review Petition No. 13/RP/2016 (filed for review of the order dated 30.12.2015 in



Petition No. 161/TT/2015) wherein the Commission had re-considered the Review Petitioner's claim of additional RoE in respect of Asset-III and had held in favour of the Review Petitioner, thereby granting additional RoE of 0.5% for Asset-III for the 2014-19 period.

b. All the transmission assets under the transmission project were put into commercial operation within the scheduled COD of the transmission project. Therefore, proviso (i) of Regulation 24(2) of the 2014 Tariff Regulations pertaining to additional RoE has been complied with. Proviso (iii) of Regulation 24(2) of the 2014 Tariff Regulations deals with a specific aspect, namely when only one of the elements of the transmission asset is put into commercial operation within the specified timeline. In such case, additional RoE gets linked to submission of a certificate by RPC/ NPC to the effect that commissioning of such an element will benefit the system operation in the regional/ national grid. However, the RPC/ NPC certificate has no bearing in the present case as the transmission project was put into commercial operation on time.

c. The decision of the Commission disallowing the claim of additional RoE for Asset-III is an error apparent on the face of record.

10. Learned counsel for TANGEDCO, Respondent No. 1, has submitted vide affidavit dated 20.7.2021 that the Commission vide order dated 16.8.2020 in Petition No. 77/TT/2020 has already disallowed the additional RoE of 0.5% for Asset-III as the matter has attained finality in the order dated 30.12.2015 in Petition No. 161/TT/2015. He contended that the Review Petitioner is re-agitating the same issue. It is mandatory for the Review Petitioner to obtain a certificate from RPC/ NPC justifying its claim. He further submitted that the Review Petitioner may be directed to adhere to provisions under proviso (iii) of Regulation 24(2) of the 2014 Tariff Regulations and accordingly, the claim of additional RoE for Asset-III may be disallowed.

11. In response to the submissions made by TANGEDCO, the Review Petitioner vide affidavit dated 23.7.2021 has reiterated the submissions made in the review



petition. The Petitioner has submitted that review powers of the Commission can be invoked either in case the error apparent in an order is on account of mistake on part of the party/ its counsel or due to oversight by the Commission and has referred the following judgements of Hon'ble Supreme Court and Hon'ble High Court of Karnataka in support of its contention:

a. Judgement dated 20.12.1949 – Musammat Jamna Kuer vs. Lal Bahadur & Ors.; AIR 1950 FC 131

b. Judgment dated 28.5.1971 – The Selection Committee for Admission to the Medical and Dental College vs. M.P Nagaraj; AIR 1972 Mys 44

Analysis and Decision

12. We have heard the learned counsels of the Review Petitioner as well as learned counsel for TANGEDCO, considered the submissions made and the material available on record. The Review Petitioner has sought review of the impugned order on the grounds that the Commission did not take cognizance of the order dated 30.5.2016 in Review Petition No. 13/RP/2016 (filed for review of the order dated 30.12.2015 in Petition No. 161/TT/2015) wherein the Commission had re-considered the Review Petitioner's claim of additional RoE in respect of Asset-III and had decided in the favour of the Review Petitioner. It is observed that the order dated 30.5.2016 in Review Petition No. 13/RP/2016 was not brought to the notice of the Commission by the Petitioner in the proceedings in Petition No. 77/TT/2020 and accordingly additional RoE was not allowed for Asset-III. The Commission in the aforesaid order dated 30.5.2016 had considered the issue of additional RoE of 0.5% and allowed the same for Asset-III for the 2014-19 period. The relevant portion of the order dated 30.5.2016 is as follows:

"7. We did not allow additional RoE for the instant assets in order dated 30.12.2015 in Petition No. 161/TT/2015 as the Commission had not taken a view on the COD of the other elements covered in the project. At the time of preparation of order in Petition No.



161/TT/2015, COD and tariff of some of the assets of the project covered in Petition Nos. 37/TT/2014 and 245/TT/2014 was not determined. Accordingly, PGCIL was directed to submit a certificate from RPC/NRPC clearly stating that commissioning of a particular element will benefit the operation of the regional/national grid as provided in proviso (iii) to Regulation 24(2) of the 2014 Tariff Regulations. However it is found that the COD and tariff of all the elements covered in Petition Nos. 37/TT/2014 and 245/TT/2014 determined by order dated 22.1.2016 and 29.2.2016 have been commissioned within the timeline specified in the 2014 Tariff Regulations and allowed additional RoE of 0.5%. Accordingly, the assets covered in the instant petition which form part of the same project also qualify for additional RoE of 0.5% as provided in proviso (i) of Regulation 24(2) of 2014 Tariff Regulations as all the assets covered in the project have been commissioned within the timeline specified in the 2009 Tariff Regulations and the 2014 Tariff Regulations. Therefore, the review petition is allowed and accordingly the tariff of (a) Kurnool-Raichur 2nd 765 kV S/C line, (b) Extension of Kurnool 765/400 kV Sub-station, and (c) Extension of Raichur 765/400 kV Sub-station allowed vide order dated 30.12.2015 in Petition No. 161/TT/2015 is revised in the following paragraphs.”

13. Therefore, non-consideration of the order dated 30.5.2016 in Review Petition No. 13/RP/2016, wherein additional RoE of 0.5% was allowed for Asset-III, in order dated 16.8.2020 in Petition No. 77/TT/2020 is an inadvertent error which requires to be corrected. Accordingly, we allow the Review Petitioner’s claim for additional RoE of 0.5% for Asset-III and RoE of Asset-III for the 2014-19 period is being revised.

14. The Commission, vide order dated 27.4.2020 in Petition No.274/TT/2019, had arrived at the effective tax rate for the Petitioner based on the notified MAT rates and the same have been considered for grossing up the rate of RoE. RoE for Asset-III has been determined in accordance with Regulation 24 and Regulation 25 of the 2014 Tariff Regulations and is revised as follows:

(₹ in lakh)

Particulars	2014-15 (Pro-rata 284 days)	2015-16	2016-17	2017-18	2018-19
Opening Equity	5329.13	5495.59	5532.11	5704.68	5704.68
Additions due to ACE	166.46	36.52	172.58	0.00	0.00
Closing Equity	5495.59	5532.11	5704.68	5704.68	5704.68
Average Equity	5412.36	5513.85	5618.40	5704.68	5704.68
Return on Equity (Base Rate) (in %)	16.00	16.00	16.00	16.00	16.00
MAT Rate for respective	20.961	21.342	21.342	21.342	21.549



year (in %)					
Rate of Return on Equity (in %)	20.243	20.341	20.341	20.341	20.395
Return on Equity	852.49	1121.57	1142.84	1160.39	1163.47

15. The Interest on Working Capital for Asset-III has been worked out as per the methodology provided in Regulation 28 of the 2014 Tariff Regulations and is now allowed as follows:

(₹ in lakh)

Particulars	2014-15 (Pro-rata 284 days)	2015-16	2016-17	2017-18	2018-19
O&M Expenses (O&M Expenses for 1 month)	20.05	20.73	21.41	22.12	22.86
Maintenance Spares (15% of O&M Expenses)	36.10	37.31	38.53	39.82	41.14
Receivables (Equivalent to 2 months of annual fixed cost)	548.23	549.60	548.03	544.02	531.98
Total Working Capital	604.37	607.64	607.97	605.97	595.98
Rate of Interest (in %)	13.50	13.50	13.50	13.50	13.50
Interest on Working Capital	63.48	82.03	82.08	81.81	80.46

16. Accordingly, the Annual Fixed Charges (AFC) in respect of Asset-III stands revised as follows:

(₹ in lakh)

Particulars	2014-15 (Pro-rata 284 days)	2015-16	2016-17	2017-18	2018-19
Depreciation	737.05	965.13	983.52	998.71	998.71
Interest on Loan	719.14	880.17	822.87	757.76	674.98
Return on Equity	852.49	1121.57	1142.84	1160.39	1163.47
Interest on Working Capital	63.48	82.03	82.08	81.81	80.46
O&M Expenses	187.23	248.72	256.89	265.48	274.26
Total	2559.39	3297.62	3288.20	3264.15	3191.88

17. Except for the above, all other terms contained in the order dated 16.8.2020 in Petition No. 77/TT/2020 shall remain unaltered.



18. This order disposes of Petition No. 7/RP/2021 in terms of the above discussion and findings.

sd/-
(I. S. Jha)
Member

sd/-
(P. K. Pujari)
Chairperson

